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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,895	10/15/2001	Cheol-Woong Lee	042933/253104	3472
826	7590	11/01/2007	EXAMINER	
ALSTON & BIRD LLP			HEWITT II, CALVIN L	
BANK OF AMERICA PLAZA			ART UNIT	
101 SOUTH TRYON STREET, SUITE 4000			PAPER NUMBER	
CHARLOTTE, NC 28280-4000			3621	
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			11/01/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/977,895

Applicant(s)

LEE, CHEOL-WOONG

Examiner

Calvin L. Hewitt II

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Claims

1. Claims 11-15 have been examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 11-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01. The omitted elements are:
a "first user". Claims

Claims 11 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: determining that a digital music file has a higher probability of being reproduced, determining the relationship between other music files and illegally distributed music files, determining files to be illegally distributed and inserting a noise component.

Claims 13-15 are also rejected as each depends from either claim 11 or 12.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hale et al., U.S. Patent No. 6,732,180 in view of Rabin et al., U.S. Patent No. 6,697,948.

As per claims 11-13, Hale et al. teach identifying a digital music file, creating a deteriorated version of the music file and then distributing the deteriorated file (figure 3; column 8, lines 10-18; column/line 10/42-11/26). However, Hale et al. do not specifically recite deteriorating the same file. Rabin et al. teach identifying a digital music file and then rendering the file unusable (column 15, lines 49-60; column 26, lines 33-47). Therefore, it would have been obvious to one of ordinary skill to combine the teachings of Hale et al. and Rabin

et al. in order to prevent access to any clean versions of the digital music on the network.

As per claim 13, Hale et al. teach creating deteriorated versions of a digital music file by introducing white noise, degrading the quality of the file, inserting warnings and advertisements, or by other methods (column 8, lines 10-18). Hence, Hale et al. at least suggest to one of ordinary skill inserting a noise component (e.g. warning or ad) to create a deteriorated version of the file.

6. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hale et al., U.S. Patent No. 6,732,180 and Rabin et al., U.S. Patent No. 6,697,948. as applied to claims 11 and 12 above, and in further view of Hunter et al., U.S. Patent No. 7,209,900.

As per claims 14 and 15, Hale et al. teach a method for preventing unauthorized access to digital music by identifying "illegally" traded digital music on a network, creating deteriorated copies of the music and distributing the deteriorated copies on the network (figure 3; column 8, lines 10-18). Rabin et al. teach identifying unauthorized copies of music and then rendering the unauthorized copies unusable to users (column 15, lines 49-60; column 26, lines 33-47). However, neither Hale et al. nor Rabin et al. explicitly recite determining which music files have high probability of being copied. Hunter et al. teach

determining which music files of a population of music files have a higher probability of being downloaded (column 10, lines 25-53; column/line 13/65-14/1; column 14, lines 19-30). Therefore, it would have been obvious to combine the teachings of Hale et al., Rabin et al. and Hunter et al. in order to more efficiently render file sharing networks undesirable ('180, column 5, lines 50-56) by targeting only the most often traded music files ('900, column 10, lines 25-53).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Calvin Loyd Hewitt II whose telephone number is (571) 272-6709. The Examiner can normally be reached on Monday-Friday from 8:30 AM-5:00 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Andrew Fischer, can be reached at (571) 272-6779.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see

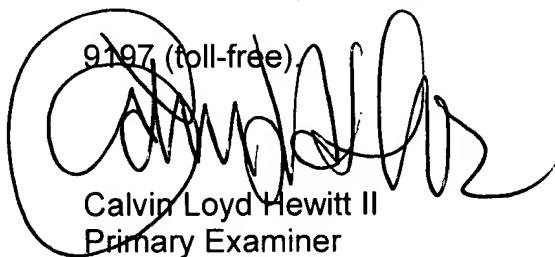
Application/Control Number:
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Art Unit: 3621

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<http://pairect.uspto.gov>. Should you have questions on access to the

Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-

9197 (toll-free).

A handwritten signature in black ink, appearing to read "Calvin Hewitt II", is written over the toll-free number and extends into the name below.

Calvin Loyd Hewitt II
Primary Examiner

October 28, 2007